

MAR-WIN DEVELOPMENT CO.

IBLA 80-52

Decided April 30, 1980

Appeal from decision of the Montana State Office, Bureau of Land Management, rejecting simultaneous noncompetitive lease offer M-44489.

Reversed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Drawings

It is improper to reject a drawing entry card lease offer, given first priority at a drawing where the offeror, a corporation, inserts its corporate name in the appropriate spaces on the drawing entry card in the order of last name first, and first name last in accordance with the instruction on the card. Any reversals of corporate names henceforth may invalidate the offers so involved.

APPEARANCES: Raymond K. Pette, Esq., of Billings, Montana for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

The simultaneous, noncompetitive drawing entry card lease offer of Mar-Win Development Company was drawn with first priority in the August 1979 drawing of parcel MT 1013 in the Montana State Office, Bureau of Land Management (BLM). On September 19, 1979, BLM issued a decision rejecting this offer, stating that:

Your offer is hereby rejected because the placement of your corporate name is incorrect. A recent Board of Land Appeals' decision, Gordon N. Blair, 4[1] IBLA 288 (1979) held that a drawing entry card is defective where the offeror's name is not placed in conformance with the printed instructions on the card. A corporate name does not come within the purview of said decision, and should

be place on the drawing entry card exactly as incorporated.

Mar-Win Development Company has appealed from that decision contending that the decision is arbitrary, unreasonable, and capricious. Appellant states inter alia:

1. The Simultaneous Oil and Gas Drawing Entry Card, Form No. 3112-1 (April, 1978), a copy of which is annexed hereto, utilized by Mar-Win Development Co., is on a form formulated and published by the Department of Interior, Bureau of Land Management. The same form is utilized by individuals, corporations, and other entities. Underneath the space provided for typing in the name of the offerer, are the words, last name, first name, and middle initial. These are the only instructions on the form which would indicate how the name of the offerer should be placed on the space so provided. Although on the back of the form, there are some Instructions, such Instructions do not specify that the name of a corporate offerer should be placed on the drawing entry card exactly as the name of the corporation appears in its Articles of Incorporation (or for that matter, as appears in its Corporate Qualifications filed with the Bureau of Land Management).

2. The instructions in the Simultaneous Oil and Gas Drawing Entry Card contained several CFR citations. None of these citations spell out any requirements, or shed any light on how the name of the corporate offerers should appear on the Drawing Entry Card. In fact, there is nothing in 43 CFR which makes any such requirement or sheds any such light.

[1] The governing regulation, 43 CFR 3112.2-1(a), requires that the drawing entry card (DEC), must be "signed and fully executed." The instructions on the card indicate that the offeror's name must be inserted on the appropriate line in the following manner: "last name, first name, and middle initial." As appellant has indicated, these instructions do not specifically differentiate between corporations and individuals.

The Board has held that a DEC which is not wholly in compliance with the regulations must be rejected. In recent cases that principle has been construed to require that persons filing singly and as individuals must insert their names on the appropriate line of the DEC in accordance with the instructions. Gordon N. Blair, 41 IBLA 288 (1979); Irving B. Brick, 36 IBLA 235 (1978). However, we find it unreasonable for BLM to reject an offer of a corporation, where the corporation has made a good faith attempt to follow these instructions on the DEC even though they are inappropriate for a corporate name.

By listing its last name first, and the first name, last, on the card as indicated, the corporation has not created a fatal defect in the offer and should not be penalized for noncompliance with the regulations. Accordingly, we find that appellant's drawing entry card was executed in compliance with 43 CFR 3112.2-1(a). We wish to make clear, however, that corporations should not, in the future, reverse their corporate name in completing the DEC and any reversals of corporate names henceforth may invalidate the offers so involved.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed, and the case remanded to BLM for further consideration consistent with the decision herein, and with Secretarial Order No. 3049 of February 29, 1980, which suspended the issuance of noncompetitive oil and gas leases.

Anne Poindexter Lewis
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Frederick Fishman
Administrative Judge

